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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/557,889 04/21/00 HOFSAESS

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MMC2/1105  
HARNESS DICKEY AND PIERCE P L C  
P O BOX 828  
BLOOMFIELD HILLS MI 48303

EXAMINER

VORTMAN, A

ART UNIT

PAPER NUMBER

2835

DATE MAILED:

11/05/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

09/557,889

Applicant(s)

HOFSAEISS, MARCEL

Examiner

Anatoly Vortman

Art Unit

2835

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 12 and 13 recite the limitations "the guide element". There is insufficient antecedent basis for these limitations in the claims.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-12 and 15, are rejected under 35 U.S.C. 102(b) as being anticipated by US/3,443,259 to Wehl et al., (Wehl).

Regarding claim 1, Wehl disclosed a device (Fig. 1-7), comprising an electrical load (column 1, lines 25-28), a housing part (2), an external terminal (8) for supplying electricity to said load, a cavity provided in said housing part (2) for receiving a housingless temperature-dependent switching mechanism (Fig. 7), said switching mechanism protecting said load from overtemperature and overcurrent, respectively (column 1, lines 25+), a first (6) and a second (13) countercontact being provided in said cavity, said first countercontact (6) being electrically connected to said load and said second countercontact (13) being electrically connected to said external terminal (8), said cavity being configured to receive said housingless switching mechanism (Fig. 7) such that said switching mechanism when being below its response temperature is in direct electrical contact with said first (6) and second (13) countercontacts for electrically interconnecting said first (6) and second (13) countercontact with each other (Fig. 1).

Regarding claims 2 and 3, Wehl disclosed a cover (4, 7) that sealingly closes off the cavity after the switching mechanism has been set in place (Fig. 1).

Regarding claim 6, Wehl disclosed that said switching mechanism being configured as a lossproof unit comprising a bimetallic element (9) and a movable contact element (13) that coacts with one (6) of the two countercontacts.

Regarding claim 7, Wehl disclosed a spring element (11) that is held in lossproof fashion on the contact element (13) that coacts with the other (6) of the two countercontacts.

Regarding claims 8 and 9, Wehl disclosed that the switching mechanism is attached to a guide element (4) that is inserted together with the switching mechanism into the cavity, wherein said guide (4) acts as a cover and closes off the cavity in sealed fashion.

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Regarding claims 4, 5, 10, and 11, Wehl disclosed that one (6) of the two countercontacts is arranged on the cover (guide element) (4), (Fig. 3).

Regarding claim 12, Wehl disclosed (Fig. 8) that the bimetallic element (9') is configured as a bimetallic tongue that at its first end is attached to the guide element (7) and at its free end carries the movable contact element.

Regarding claim 15, Wehl disclosed (Fig. 1-7), a switching mechanism (Fig. 7) attached to a guide element (7), the protective sheath (2) completely enclosing the switching mechanism so that a portion of the guide element (7) is exposed (Fig. 1).

#### *Allowable Subject Matter*

6. Claims 13 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US/5892429, 4470033, 5121095, 6249210, 5367279, 4551702, 4849729, 4517541, and 4672353 disclosed thermally responsive switches.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anatoly Vortman whose telephone number is 703-308-7824.

The examiner can normally be reached on 9:30-6:00, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Leo P. Picard can be reached on 703-308-0538. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

A.V.  
September 24, 2001

A handwritten signature in cursive script, appearing to read 'A. Vortman', followed by a horizontal line.

Anatoly Vortman  
Examiner  
Art Unit 2835